



**COMMONWEALTH of VIRGINIA**  
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July 29, 2004

Dr. Jo Lynne DeMary  
Superintendent of Public Instruction  
Department of Education  
Monroe Building  
101 North 14<sup>th</sup> Street  
Richmond, VA 23219

**Re: Repeal of Rules Governing Division Superintendents Salary and Expenses  
(8 VAC 20-400-10)**

Dear Dr. DeMary:

You ask whether the Virginia Board of Education possesses the requisite statutory authority to repeal the above Rules Governing Division Superintendents Salary and Expenses, 8 VAC 20-400-10.

Section 22.1-16 vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1. No doubt the Board had the requisite authority originally to promulgate these regulations, under this statute or perhaps another in effect at the time. The General Assembly has subsequently enacted § 22.1-22.1-253.13:2, the Standard of Quality addressing support services. Paragraph E of that section provides: "Pursuant to the appropriations act, support services shall be funded from basic school aid on the basis of prevailing statewide costs." An examination of recent appropriations acts shows superintendents salaries included in the state/local funding formulae. As a result, the regulations are unnecessary and possibly conflicting. Repeal of these regulations is an appropriate and advisable course of action.

The foregoing represents my view and does not constitute an official opinion of the Attorney General. If you require additional assistance from me on this matter, please do not hesitate to contact me.

Sincerely,

Deborah Love Feild  
Senior Assistant Attorney General

